IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Criminal Appeal No.663-SB of 1995
Date of decision: 7.5. 2007

Baldev Singh

-----Appellant.

Vs.

The State of Punjab.

-----Respondent.

CORAM:- HON'BLE MR JUSTICE ADARSH KUMAR GOEL

Present: None for the appellant.

Mr. Shilesh Gupta, DAG, Punjab.

The appellant questions his conviction under Section 25 of Arms Act, 1959 (for short, "the Act") for which, he has been sentenced to undergo RI for one year and to pay fine of Rs.500/-, in default, to undergo further RI for three months.

Case of the prosecution is that on 7.9.1991, ASI Baldev Singh (PW-4) alongwith Constable Gurdeep Singh (PW-3) was present at the Bus Stop of Village Kila Bharian for patrol, when he received secret information that the accused was in possession of .12 bore gun without any licence. He went to the house of the accused and recovered the weapon. The accused produced the licnece, which had expired on 20.3.1989. The weapon was taken into possession and a ruqa was sent, on the basis of which, FIR was registered. After

completing investigation and obtaining sanction from the District Magistrate, Sangrur, the accused was challaned.

The prosecution examined Balwinder Kaur (PW-1), Clerk of SDM Office, Sangrur, who proved the licence Ex.P-1 and deposed that the same was valid as per their office record upto 20.3.1989 in the name of Baldev Singh, accused, Smt. Anju Nagpal (PW-2), Clerk from the office of District Magistrate, Sangrur, who proved the sanction order (Ex.PA), which was accorded by the District Magistrate, Sangrur for the prosecution of the accused, Constable Gurdeep Singh (PW-3), who is one of the recovery witnesses and ASI Baldev Singh (PW-4), who is the Investigating Officer in this case.

In his statement under Section 313 Cr.P.C., the accused took the plea that he was an illiterate person and on account of fear, he did not deposit the weapon with the police station and did not take steps to get the licence renewed. He denied that the gun was at his residence.

The trial Court after considering the evidence of PW-4 ASI Baldev Singh and PW-3 Gurdeep Singh held that the accused was established to have been in possession of the weapon without any valid licence. It was held that mere possession of a weapon was an offence under Section 25 of the Act. Accordingly the appellant has been convicted and sentenced as above.

None is present for the appellant.

I have perused the record and heard learned counsel for the respondent.

In view of above evidence on record comprising of PW-4 ASI Baldev Singh and PW-3 Gurdeep Singh who recovered the weapon from the possession of the appellant, recovery of the weapon from the appellant stands fully established on record. There is no reason whatsoever to reject the evidence of PWs for the recovery of the weapon from the appellant.

The offence clearly falls under Section 25(1-B) of the Act. The sentence provided is minimum one year, which can extend to three years, but in view of proviso to Section 25 (1-B), sentence can be reduced to a term less than one year also.

Since the offence against the appellant is fully established, his conviction is upheld. However, having regard to the fact that the accused was illiterate and had no intention to commit the offence deliberately, ends of justice will be met if the substantive sentence awarded to the appellant is reduced to the period already undergone. Ordered accordingly.

The appeal is disposed of.

May 7, 2007 (**ADARSH KUMAR GOEL)**
ashwani **JUDGE**